REMARKS/ARGUMENTS

Claims 1 to 8 are pending in this application. Claim 4 was amended. A petition for revival for unintentional abandonment under 37 FFR 1.137(b) is being submitted along with this response.

Applicants acknowledge that the previous rejection under 35 U.S.C. 103(c) were withdrawn and thus Applicants will discuss the new grounds for rejection under the present Office Action.

The Office Action, in paragraph 3, stated that the IDS submitted on 1/30/2004 was not considered. The documents in the IDS are listed on USPTO form 1449 and are all U.S. Patents, readily accessible by the USPTO. Applicants do not understand why they were not considered. Applicants respectfully request that these documents be considered.

Claims 1 to 3 and 5 to 7 were rejected under 35 U.S.C. § 112, first paragraph as failing to comply with the written description requirement. This rejection is respectfully traversed. The test for written description is that "a patent specification must describe the claimed invention in sufficient detail that one skilled in the art can reasonably conclude that the inventor had possession of the claimed invention." MPEP 2163 (citations omitted). As described on page 4, in the detailed description of the invention, the method of the present invention comprises the use of any AMPA antagonists to treat dyskinesia associated with dopamine agonist therapy. Various AMPA receptors antagonists are known in the art and the present specification lists approximately 30 patents describing AMPA antagonists. Thus, Applicants respectfully submit that specification is described is sufficient detail so that one skilled in the art can reasonably conclude that the inventor had possession of the claimed invention because AMPA antagonists are well-known.

The Office Action seems to imply that structures are needed for the written description requirement. However, that has never been the case. As even disclosed in the Office Action, written description can be satisfied by functional characteristics (e.g., AMAP antagonists). The Office Action's contention would be well-taken if the present specification was the first time that AMPA antagonists were ever disclosed or described in the art. However, since AMPA antagonists are known in the art as attested to by the disclosure of the approximate 30 patents recited in the present application, one skilled in the art could reasonably conclude that the inventors had possession of the claimed invention.

If the Office Action's contention is taken to its reasonable conclusion, the use of genus functional language could never be used in the claims. However, as long as the genus

functional language is understood by one skilled in the art, and has been described sufficiently in the art, one skilled would know that the inventors have possession of the invention.

The rejection of claim 4 for lacking an antecedent basis is rendered moot by the amendment to the claim. It should be noted that the amendment to claim 4 is not a limiting amendment, but merely made to recite a proper antecedent basis.

Claims 1 to 3 and 5 to 7 were rejected under 35 U.S.C. § 103(a) for being unpatentable over U.S. Patent No. 5,670,516 to Arnold et al (Arnold) and the Gerlach and Adam's papers. Applicants believe that the Office Action is using the combination of all three documents based on the context of the Office Action. Applicants respectfully traverse this rejection.

The Menniti declaration provided earlier in this prosecution states that AMPA antagonists inhibits dopamine agonist-induced dyskinesia was unanticipated and contradicted at the time of Arnold because the Klogether and Loschman demonstrate that that AMPA receptor antagonists potentiates the effect of a dopamine agonist in bradykinesia. The Office Action rejected this argument contending that since bradykinesia is hypokinetic and dyskinesia is hyperkinetic, one of ordinary skill would believe that since AMPA receptor increases hypokinetic bradykinesia, it would decrease hyperkinetic dyskinesia. However, this is contradicted by the Gerlach article supplied by the Office Action. On page 209, paragraph 2.0, it states

> ...although the neuroleptic-induced disturbances of movement can be roughly classified as acute dystonia, parkinsonsism and tardive dyskinesia, in reality that are far from being separate syndromes. There is a considerable amount of both clinical and pathogenetic overlap.

In paragraph 2.2 on page 211 of the same paper, it states that dystonia is hyperkinetic while parkinsonism is hypokinetic (paragraph 2.3 on page 212). Accordingly, Gerlach discloses that both hypokinetic and hyperkinetic syndromes have considerable pathogenetic overlap. Thus, it is surprising that AMPA does not potentiate hyperkinetic dyskinesia since it does with hypokinetic bradykinesia and Gerlach discloses that there is considerable pathogenetic overlap between hypokinetic and hyperkinetic Parkinson syndromes.

The Office Action also contends that Gerlach teaches that L-dopa-induced hyperkinesias is the same as tardive dyskinesia (TD). However, that is only clinically (i.e., observation of patients). Gerlach states these two syndromes represent obvious

clinical analogues (i.e., the same hyperkinetic symptoms.), but not necessarily the same pathogenic analogues (i.e. the same root cause). Gerlach may teach that these syndromes may be indistinguishable to diagnose clinically, but does not teach that they have the same root cause.

In fact, referring to paragraph 3.2.3 on the next page, Gerlach states that although drug induced movement can no doubt throw light on hyperkinesias in general, it can hardly contribute to understanding the disturbances underlying TD. Thus, Gerlach teaches that these two syndromes are probably not caused by the same underlying pathology and the Office Action's contention that TD is the same as hyperkinesias is in fact contradicted by Gerlach (see also title of paragraph 3.2.2 – *Hyperkinesia not directly comparable to TD*).

Accordingly, in light of this discussion that the Gerlach article supports the Menniti declaration in that it is surprising that AMPA does not potentiate hyperkinetic dyskinesia and that the Gerlach article teaches that L-dopa induced hyperkinesias is only an analogue clinically, but probably not pathogenically, it would not have been obvious to use AMPA receptor antagonists with dopamine agonist therapy. Thus, the 103(a) rejection should be withdrawn.

In view of the foregoing, allowance of all pending claims in the application is respectfully requested. Except for the petition to revive, no other fee is believed due for this submission. If any fee is required to cover this submission, please charge the appropriate fee to Pfizer Deposit Account No. 16-1445.

Respectfully submitted,

Date: February 4, 2005

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